

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

File No. 1:06-CV-166

v.

HON. ROBERT HOLMES BELL

AURIFEX COMMODITIES RESEARCH  
COMPANY, et al.,

Defendants.

\_\_\_\_\_ /

**MEMORANDUM OPINION AND ORDER**

This matter comes before the Court on Defendant Ty Klotz's first amended motion to receive monies for personal expenses and motion for allowance of payment of attorneys fees and costs. The Court denied Mr. Klotz's first motion for failure to document a legitimate source of the funds. The Court advised that it was "incumbent on Mr. Klotz to document the source of the funds in order to assure the Court that the funds have a source that is independent from the funds received from Aurifex investors." In complete disregard of the Court's instructions, Mr. Klotz's first amended motion does not provide any evidence to document the source of the funds he intends to use for either his living expenses or his attorneys fees. His attorneys have represented that Robin Bushur is the sole benefactor Mr. Klotz's living expenses and attorney fees; that Ms. Bushur has an independent income, a divorce settlement and savings; and that Mr. Klotz has no formal agreement to repay her for

her hospitality. (Def.'s First Am. Mot. ¶¶ 8-11.) However, Mr. Klotz has not documented his financial arrangement with Ms. Bushur or Ms. Bushur's source of funds with any evidence that would assure the Court that the funds have a source that is independent from the funds received from Aurifex investors. Mr. Klotz is well aware of Plaintiff's legitimate concerns concerning the source of Ms. Bushur's funds. His statement that the government has not established a link between Aurifex investor funds and Ms. Bushur is an improper attempt to shift the responsibility for coming forward with evidence from himself to Plaintiff.

The Court is obligated to preserve Aurifex funds for the Aurifex investors. The Court will only grant Mr. Klotz an exemption from the preliminary injunction's prohibition against disposing of existing and after-acquired assets if Mr. Klotz assures the Court through sworn affidavits that the money has a legitimate source separate and apart from the Aurifex investors. Assurances from Mr. Klotz's attorneys are not sufficient. Accordingly,

**IT IS HEREBY ORDERED** that Defendant Ty Klotz's first amended motion for leave to receive living expenses and motion for allowance of payment of attorneys fees and costs (Docket # 176) is **DENIED**.

Date: September 26, 2007 /s/ Robert Holmes Bell  
ROBERT HOLMES BELL  
CHIEF UNITED STATES DISTRICT JUDGE